

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

CHRISTINE QUERRY,)	
)	
Plaintiff,)	Civ. No. 06-1675-TC
)	
vs.)	
)	
)	OPINION AND ORDER
)	
COMMISSIONER of Social Security,)	
Defendant.)	

Coffin, Magistrate Judge:

Plaintiff, Christine Querry, applies for fees and costs pursuant to 28 U.S.C. § 2412 et seq. For the reasons that follow, plaintiff's fee request (#21) is granted.

Discussion

Based on the hourly rates applicable to social security legal work performed in 2006 (\$161.85) and 2007 (\$166.26), plaintiff requests a total of \$10,582.76, the sum of 60.05 hours' work in 2007 and 3.7 hours' work in 2006. Plaintiff adds to this sum \$350 in costs, and a supplemental request for \$548.37, the amount of fees accrued in drafting plaintiff's reply to the

1 Commissioner's brief opposing her fee request.

2 Under 28 U.S.C. § 2412, plaintiff is entitled to an "award
3 reasonable fees and expenses of attorneys, in addition to the
4 costs" upon prevailing, "unless the position of the United States
5 was substantially justified" or where "special circumstances make
6 and award unjust." There is no dispute that plaintiff prevailed
7 in this matter; the decision of the Commissioner was reversed and
8 the matter remanded for an award of benefits. Further, the
9 Commissioner does not assert that its position was "substantially
10 justified" so as to preclude a fee award, nor does it argue that
11 an award would be unjust.

12 Rather, the Commissioner asserts that the number of hours
13 expended by plaintiff is unreasonable. In large part, the
14 Commissioner rests on the proposition that senior attorneys at the
15 Wilborn firm should demonstrate a measure of efficiency that, in
16 the Commissioner's view, might have reduced their billed hours by
17 one-third. The Commissioner further asserts that a less senior
18 member of the firm billed an excessive number of hours (35.75)
19 after drafting plaintiff's opening brief.

20 The Commissioner's arguments are unavailing. The court
21 appreciates the complexity of the legal arguments implicated in
22 its review of the Commissioner's final decision, the length of the
23 administrative record, and the reach of plaintiff's research in
24 addressing a host of asserted errors. It is unclear how
25 additional experience could have reduced the time spent on the
26 opening brief, which would have required time-consuming record
27 review, drafting, and extensive legal research regardless of one's
28 seniority in the field. The Commissioner does not point to other

1 particular expenses that he deems egregious. The Commissioner's
2 seniority-based argument simply does not engage the highly
3 developed evidence concerning plaintiff's work and expenses.

4 The remainder of the Commissioner's reasoning is based in
5 part on a notion that certain social security cases are routine
6 and others are not; that this case is more like a routine case
7 than a nonroutine case, and for that reason, a 40-hour expectation
8 is more reasonable than the approximately 67 hours that plaintiff
9 seeks to remunerate. Having the benefit of a detailed accounting
10 of plaintiff's time, an understanding of the demands that
11 plaintiff met in order to achieve her outcome, and an appreciation
12 of the record, I cannot agree that a 40-hour cap is appropriate
13 in this case. Furthermore, a review of comparators in a number
14 of jurisdictions persuades the court that the number of hours that
15 plaintiff spent on this matter is not out of step with that of
16 other practitioners seeking review of benefits determinations in
17 district courts. E.g., Carr v. Astrue, CV 06-825-ST, at 4 (D. Or.
18 Dec. 12, 2007) (63 hours); Wirth v. Barnhart, 325 F.Supp.2d 911
19 (E.D. Wis. 2004) (over 60 hours); Norton v. Apfel, No. Civ.A.
20 99-2209 (E.D. La., Aug. 3, 2000) (approximately 75 hours); Greene
21 v. Barnhart, No. 03-36-B-W, (D. Maine, June 15, 2004) (65 hours).

22 23 Conclusion

24 Plaintiff's request for fees and costs (#21) in the amount
25 of \$11,481.13 is granted.

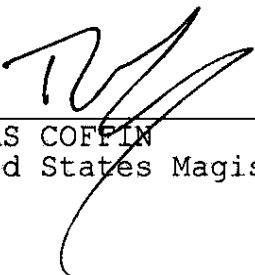
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1 IT IS SO ORDERED.

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3 Dated this 5 day of February, 2008.
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8 THOMAS COFFIN
9 United States Magistrate Judge
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